IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9073 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

ADAMBHAI M UGHRAVDAR - Respondent(s)

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Appearance :

MS BHAVIKA KOTECHA for MR YOGESH S LAKHANI for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 12/07/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the order dated 30.11.1993 passed by the Labour Court, Bharuch, in

Reference (LCB) No. 892 of 1990, whereby the said reference was partly allowed.

2.0 The respondent herein was working as a Conductor with the petitioner Corporation. On 03.01.1990, while the respondent was on duty, the bus was checked by the Checking Squad of the petitioner Corporation and they found certain irregularities in the issuance of tickets. Charge-sheet was issued and departmental inquiry was held against the respondent. Since the charges levelled against the respondent were proved, he was dismissed from service on 31.08.1990.

2.1 Pursuant to the above, the respondent raised a dispute before the Labour Court, Bharuch, by way of a reference. The Labour Court, Bharuch, by impugned order dated 30.11.1993, partly allowed the said reference. Hence, this petition.

3.0 Ms. Kotecha learned advocate appearing for Mr. Y S Lakhani for the petitioner Corporation has contended that the Labour Court has committed an error of law in exercising jurisdiction over the decision of the petitioner Corporation. She has submitted that the Labour Court cannot sit in appeal over the decision of the petitioner Authority, when the charges levelled against the respondent were proved in the departmental inquiry conducted against him.

3.1 She has further submitted that the respondent was involved in such misconduct on 24 earlier occasions also, but, was only imposed minor penalties with a view to provide him an opportunity to improve his conduct. She has,

therefore, submitted that the Labour Court has committed grave error by directing the petitioner to reinstate the respondent in service.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The Labour Court has substituted the order of dismissal passed by the petitioner Corporation by reinstating the respondent with continuity in service but without any back wages. Looking to the past conduct and since the charges levelled against of the respondent were proved, the Labour Court, while substituting the order of dismissal, ought to have imposed some penalty on the respondent workman. In my opinion, ends of justice will be served if a penalty of stoppage of two increments with future effect is imposed on the respondent workman.

5.0 In above view of the matter, the petitioner Corporation is directed to impose a penalty of stoppage of two increments with future effect on the respondent workman. It is further directed that the petitioner Corporation shall give the respondent workman all benefits from the date of the publication of the award till he has been reinstated in service within a period of three months from the receipt of writ of this order. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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